



**Town of Southampton  
Long Island, NY**

**Town Board Resolution  
2013-590**

**Adopted**  
[May 28, 2013 6:00 PM](#)

**VI.42 Resolution of Adoption Amending Chapter 270 (Rental Properties) in  
Order to Improve the Rental Permit Application Process and Provide for Stricter  
Penalties for Offenses**

**Information**

**Department:** Town Attorney  
**Sponsors:** Supervisor Anna Throne-Holst, Councilman James Malone  
**Category:** Local Laws  
**Functions:** None

**Financial Impact**

None

**Body**

WHEREAS, the Town Board is considering amending Town Code Chapter 270 (Rental Properties) by changing the rental permit application process and providing for stricter penalties for offenses; and

WHEREAS, a public hearing was held on May 28, 2013 at which time all persons either for or against the enactment were heard; and

WHEREAS, the Department of Land Management has advised the Town Board that the proposed amendment to Chapter 270 of the Town Code of Southampton is a "Type II Action" under the provisions of the New York State Environmental Quality Review Act (SEQRA) and Chapter 157 of the Town Code and that no further review under New York Environmental Conservation Law, Article 8, is necessary; now, therefore, be it

RESOLVED, that Local Law No. 12 of 2013 is hereby adopted as follows:

**LOCAL LAW NO. 12 of 2013**

A LOCAL LAW amending Section 270-5, Section 270-6 and Section 270-19 of the Code of the Town of Southampton to provide for stricter fines and penalties for violations of Chapter 270.

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

**SECTION 1.** Legislative Intent.

The Town Board of the Town of Southampton recognizes that there are certain rental properties located within the Town of Southampton which are repeatedly found to be in violation of the rental property laws listed in Chapter 270 of the Town Code. This local law shall be amended to enhance certain penalty provisions in an effort to deter such recidivism.

**SECTION 2.** Amendment.

Section 270-5, Section 270-6 and Section 270-19 of the Southampton Town Code are hereby amended by deleting the stricken words and adding the underlined words as follows:

**§270-5. Application for rental permit.**

A. Where a dwelling unit is to be used as a rental property, an application for a rental permit shall be filed with the Chief Building Inspector before the term of the rental is to commence.

- (1) The owner of a rental property having failed to comply with the requirements of §270-5(A) shall file all appropriate rental application documents within thirty days of the receipt of actual notice of said failure to comply. Actual notice shall include, but not be limited to, the issuance of a summons or notice of violation and/or written notice from any Southampton Town official.

B. The application shall contain the following:

- (1) The name, date of birth, telephone number and address of the owner(s).
  - (a) Proof of the legal residence of each owner;
  - (b) In the event that the owner of the rental property is a corporation, partnership, limited liability company, or other business entity, the name, proof of legal residence, and telephone number of each owner, officer, principal shareholder, partner and/or member of such business entity shall be provided;
  - (c) A copy of the last deed of record for the rental property, as recorded with the Suffolk County Clerk, confirming the ownership of record of the rental property.
- (2) The name, address and telephone number of the managing agent, if applicable.
- (3) A writing, promulgated by the Office of the Town Attorney, executed by the owner(s) of the rental property, which designates either:
  - (a) A person, firm or corporation with an actual place of business, dwelling place, or usual place of abode located within the boundaries of the Town of Southampton; or
  - (b) The Town Clerk of the Town of Southampton as agent for service for criminal and civil process pursuant to CPLR Section 318. Every owner shall insure that the address for delivery of such process is current and shall advise the Town Clerk whenever the address is changed. The designated agent, upon receipt of service of process under this designation shall forthwith transmit by regular and certified mail to the owner(s) of the rental property at the address included on the owner(s) application.
- (4) The location of the rental property, including the street address and the Suffolk County Tax Map parcel number.
- (5) The number of tenants intended to occupy the rental property.
- ~~(6) The names of all tenants.~~
- ~~(6)(7)~~ A copy of a contract with a carter providing for weekly pickup, at a minimum, of refuse and proof by letter from the carter indicating that full payment for the entire term of the rental has been made, or in the alternative, an affidavit from the owner acknowledging responsibility for refuse

removal in a timely and efficient manner.

~~(7)(8)~~ The period of the proposed occupancy.

~~(8)(9)~~ A floor plan depicting the location and size of each conventional bedroom.

~~(9)(10)~~ A copy of the certificate of occupancy or pre-existing certificate of occupancy for the rental property.

~~(10)(11)~~ Written certification from a licensed architect or licensed engineer that states that the rental property fully complies with all of the provisions of the Code of the Town of Southampton. The certification shall include, but not be limited to, the number of each bedroom, the square footage of each bedroom, and a description of every improvement indicated on the survey. In lieu of the provision of a certification, an inspection may be conducted by the Chief Building Inspector.

C. The owner(s) of the premises and the managing agent, if applicable, shall submit an application that is signed, sworn to and notarized.

#### §270-6. Review of application; issuance of rental permit.

The Chief Building Inspector shall review each application for completeness and accuracy and shall make an on-site inspection of the proposed rental property unless the owner has elected to provide a certification from a licensed architect or a licensed engineer pursuant to §270-5B~~(11)~~(10). The Chief Building Inspector shall not issue a rental permit, unless the application includes all of the requisite information and documents enumerated in §270-5(B)(1) through ~~(11)~~(10). If satisfied that the proposed rental property fully complies with the New York State Uniform Fire Prevention and Building Code and the Code of the Town of Southampton and that such rental property would not create a nuisance to an adjoining nearby property, the Chief Building Inspector shall issue the permit or permits. No rental permit shall be issued if there are any violations of the New York State Uniform Fire Prevention and Building Code and the Town of Southampton in existence at the premises.

#### §270-19. Penalties for offenses.

A. A violation of this Chapter by the owner(s) and/or tenant(s) ~~is hereby declared to be an offense by a fine not less than \$1,500 nor more than \$8,000 or imprisonment for a period not to exceed six months, or both, for a conviction of a first offense; for conviction of a second or subsequent offense within 18 months, a fine not less than \$3,000 nor more than \$15,000 or imprisonment not to exceed a period of six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of this chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply. Each day's continued violation shall constitute a separate additional violation. Shall be punishable as follows:~~

(1) A violation of §270-5(A) is hereby declared to be an offense punishable by a fine not less than \$150 nor more than \$1,500 or imprisonment for a period not to exceed 15 days, or both, for a conviction of a first offense;

(2) A violation of §270-5(A)(1) is hereby declared to be an offense punishable by a fine not less than \$1,500 nor more than \$8,000 or imprisonment for a period not to exceed ~~six months~~ 15 days, or both, for a conviction of a first offense;

(3) A violation of any section of this Chapter other than §270-5(A) and/or §270-5(A)(1) is hereby declared to be an offense punishable by a fine not less than \$3,000 nor more than \$15,000 or imprisonment not to exceed a period of six months, or both, for a conviction of a first offense.

- (4) A second or subsequent violation of this Chapter within an 18 month period, is hereby declared to be an offense punishable by a fine not less than \$8,000.00 nor more than \$30,000.00 or imprisonment not to exceed a period of six months, or both.

For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of this chapter, other than §270-5(A) and/or §270-5(A)(1), shall be deemed misdemeanors and, for such purpose only, all provisions of law relating to misdemeanors shall apply. Each day's continued violation shall constitute a separate additional violation.

B. Additionally, in lieu of imposing the fines authorized in §270-19A, in accordance with Penal Law § 80.05(5), the court may sentence the defendant(s) to pay an amount, fixed by the court, no less than the applicable minimum statutory fine permitted under §270-19A nor more than ~~not exceeding~~ double the amount of the rent collected over the term of the occupancy.

C. The court may dismiss the violation or reduce the minimum fine imposed where it finds that the defendant had cooperated with the Town of Southampton in the investigation and prosecution of a violation of this chapter. Factors which the court may consider include, but are not limited to, a report from the office of the Town Attorney confirming that the defendant did in fact cooperate and whether:

- (1) The defendant reported the violation(s) to the Town of Southampton;
- (2) The defendant assisted the Town of Southampton in investigating and prosecuting the violation(s);
- (3) The defendant provided access to the rental property;
- (4) The defendant promptly pursued his/her/its own rights under the lease to remedy the violation or adequately pursued an eviction proceeding;
- (5) All violations existing at the rental property have been promptly remediated.

D. Where authorized by a duly adopted resolution of the Town Board, the Town Attorney may bring and maintain a civil proceeding, in the name of the Town, in the Supreme Court, to permanently enjoin the person or persons conducting, maintaining or permitting said violation. The owner and tenants of the residence wherein the violation is conducted, maintained or permitted may be made defendants in the action.

- (1) If a finding is made by a court of competent jurisdiction that the defendants or any of them has caused, permitted, or allowed a violation of this chapter, a penalty to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$1,000 for each day it is found that the defendants or any one of them individually caused, permitted or allowed the violation. Upon recovery, such penalty shall be paid into the Town Attorney's Enforcement Fund.

### **SECTION**

#### **3. Authority.**

The proposed local law is enacted pursuant to and Municipal Home Rule Law §10(1)(ii)(a)(11) and (12) and §10(1)(ii)(d)(3).

#### **SECTION 4. Severability.**

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provisions so adjudged to be invalid or unconstitutional.

**SECTION 5.** Effective Date.

This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to publish the following Notice of Adoption:

**NOTICE OF ADOPTION**

PLEASE TAKE NOTICE that, after a public hearing was held by the Town Board of the Town of Southampton on May 28, 2013, the Town Board, at their meeting of May 28, 2013, adopted LOCAL LAW NO. 12 OF 2013 as follows: A LOCAL LAW amending Section 270-5, Section 270-6 and Section 270-19 of the Code of the Town of Southampton to improve the rental permit application process and provide for stricter fines and penalties for violations of Chapter 270.

**Summary of Proposed Law**

The Town Board of the Town of Southampton recognizes that there are certain rental properties located within the Town of Southampton which are repeatedly found to be in violation of the rental property laws listed in Chapter 270 of the Town Code. This local law shall be amended to change certain aspects of the application process and to enhance certain penalty provisions in an effort to deter such recidivism.

Copies of the proposed local law, cosponsored by Supervisor Anna Throne-Holst and Councilman James Malone are on file in the Town Clerk's Office, Monday through Friday, from 8:30 a.m. to 4:00 p.m.

BY ORDER OF THE TOWN BOARD  
TOWN OF SOUTHAMPTON, NEW YORK  
SUNDY A. SCHERMEYER, TOWN CLERK

**Meeting History**

[May 28, 2013 6:00 PM Video](#)

Town Board

Regular Town Board Meeting

RESULT: ADOPTED [UNANIMOUS]

MOVER: Anna Throne-Holst, Supervisor

SECONDER: James Malone, Councilman

AYES: Anna Throne-Holst, James Malone, Christine Preston Scalera, Bridget Fleming, Chris Nuzzi